

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 24,379

In re: 1320 Missouri Avenue, N.W.

Ward Four (4)

MARIE and CHRISTIAN DIAS
Housing Providers/Appellants

v.

AARONITA PERRY
Tenant/Appellee

ORDER ON REMAND

August 4, 2008

YOUNG, CHAIRPERSON: This case is on appeal from the District of Columbia Department of Consumer and Regulatory Affairs (DCRA), Office of Adjudication (OAD), to the Rental Housing Commission (Commission), pursuant to the Rental Housing Act of 1985 (Act), D.C. Law 6-10, D.C. OFFICIAL CODE §§ 42-3501.01-3509.07 (2001), the District of Columbia Administrative Procedure Act (DCAPA), D.C. OFFICIAL CODE §§ 2-501-510 (2001), and the District of Columbia Municipal Regulations (DCMR), 14 DCMR §§ 3800-4399 (2004), govern the proceedings.

On August 24, 2007, Marie and Christian Dias filed a Notice of Appeal in the Commission of a decision of the Rent Administrator dated August 7, 2007. Pursuant to 14 DCMR § 3804.1 (2004), the Commission requested in writing that the Rent Administrator forward the complete record of the case to the Commission.

THE LAW

The Rent Administrator forwarded the record to the Commission, however, the record did not contain a copy of the decision and order issued on August 7, 2007. The applicable regulation, 14 DCMR § 3804 (2004), provides:

The Rent Administrator shall furnish to the Commission a written inventory of the contents of the record and shall certify the inventory as the complete and official record of the case.

14 DCMR § 3804.2 (2004). The regulations further provide, in relevant part:

The record of appeal shall consist of the following:

- (a) The findings of fact and conclusions of law and the decision from which the appeal is taken.

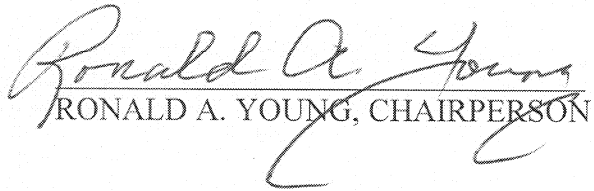
14 DCMR § 3804.3 (2004).

The District of Columbia Municipal Regulations also provide that the Commission cannot decide a case without the records from below. Furthermore, the Commission's regulations at 14 DCMR § 3804.3 (2004), provide the Commission with instructions on what it may accept as an official record from below. In Mellon Prop. Mgmt., Co. v. Jimoh, TP 23,467 (RHC Apr. 24, 1997), the Commission held, "without the complete hearing record, we cannot properly determine whether the examiner's findings were based upon substantial evidence in the record." See, also, Williams v. Poretsky Mgmt., Co., Inc., TP 23, 625 (RHC July 11, 1966); Allen v. Yoon, TP 21,804 (RHC Aug. 7, 1992); Hashim v. Peerless Prop., TP 21,877 (RHC Aug. 5, 1992); Wheeler v. District of Columbia Bd. of Zoning Adjustment, 395 A.2d 85 (D.C. 1978). The Rent Administrator did not comply with the law and the regulations in his certification of the record to the Commission.

THE COMMISSION ORDER

The Commission REMANDS this case to the Office of the Rent Administrator for re-certification of the official record. The Rent Administrator is ordered to expedite the certification of record and return the complete certified record to the Commission with all deliberate speed.

SO ORDERED.

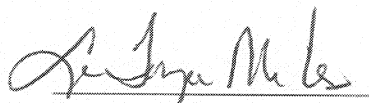

RONALD A. YOUNG, CHAIRPERSON

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Order on Remand in TP 24,379 was sent by priority mail with delivery confirmation on this **4th day of August, 2008** to the following parties:

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